

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANTS' REPLY BRIEF

APPELLANTS: Eberler et al. CONFIRMATION NO. 3538
SERIAL NO.: 10/726,251 GROUP ART UNIT: 3671
FILED: December 2, 2003 EXAMINER: Tara L. Mayo
TITLE: METHOD AND DEVICE FOR INSTALLING AND REMOVING A
STRUCTURAL COMPONENT OF AN MR APPARATUS

MAIL STOP APPEAL BRIEF- PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

SIR:

In accordance with the provisions of 37 C.F.R. §41.41, Appellants herewith submit their Reply Brief in response to the Examiner's Answer dated February 21, 2007. This Reply Brief will reply to the statements of the Examiner in the Response to Argument section of the Examiner's Answer, beginning at page 9.

In response to Appellants' arguments that the combination of Heinold et al., Reimann and Carper et al. fails to teach a structural component that is separate from the patient support apparatus, the Examiner stated that the Heinold et al. reference teaches a structural component that is separate from the patient support apparatus, because the Examiner contends that the connection of the structural component and the patient supporting apparatus does not preclude them from being separate or individual members.

Appellants would agree with this statement of the Examiner if the alleged "connection" of the relevant components in the Heinold et al. reference was a type of connection that could be disassembled or even broken. Appellants submit, however,

that the relevant components in the Heinold et al. reference, as argued in Appellants' Main Brief, are not merely "connected," but are integrally and inseparably formed together, and it is only by arbitrary "parsing" of those structural elements in the Heinold et al. reference that the Examiner has been able to (allegedly) find structure in the Heinold et al. reference corresponding to the language of independent claims 1, 12 and 13 on appeal. A person of ordinary skill in the relevant technology would not consider the structural elements identified by the Examiner in the Heinold et al. reference as being "separate" from each other.

In response to Appellants' argument that the combination of Heinold et al., Reimann and Carper et al. fails to teach a second guide rail forming a linear, aligned extension as required by claim 1, the Examiner stated that the rails disclosed in Carper et al. meet this limitation, because the rails 16 and 18 are linear and are aligned with each other.

In response, Appellants respectfully submit that the necessity of the Examiner relying on two parallel guide rails in the Carper et al. reference precludes the interpretation of the Carper et al. reference as disclosing a "first guide rail" (in the singular) as set forth in the language of claim 1. Moreover, claim 1 does not merely require that the second guide rail be linear and aligned with the first guide rail, but instead requires that the second guide rail be a linear, aligned *extension* of the first guide rail. Appellants fail to see how either of the two parallel guide rails in the Carper et al. reference can be considered "an extension" of the single guide rail disclosed in the Heinold et al. reference.

Lastly, with regard to the use of the term "patient supporting apparatus" in the independent claims of the present application, the Examiner stated that the use of

such language without additional structural or functional limitations is not relevant to the interpretation of the claims on appeal or the rejection of the claims as being unpatentable over the prior art.

Appellants respectfully disagree, because the Examiner, in comparing a patent claim to the prior art, must interpret the structure represented by a term in the patent claim in the same way as the allegedly corresponding structure in the prior art. The Examiner is not permitted to interpret the term “patient supporting apparatus” in the patent claim as including (or not including) certain components, and then allegedly find corresponding structure in the prior art that deviates from the interpretation of the term “patient supporting structure” in the claim. As noted in Appellants’ Main Brief, Appellants intentionally adopted the term “patient supporting apparatus” in the claim language because this is identical to the language used to describe certain structure in the Heinold et al. reference. This was because, in the previous claim language, a different term was used and therefore the Examiner did not feel constrained to precisely equate the structure encompassed by the previously-used term with the structure represented by the term “patient supporting apparatus” used in the Heinold et al. reference. By adopting the same language used in the Heinold et al. reference, Appellants respectfully submit the Examiner is now constrained to interpret the claim language to encompass the same structure that is encompassed by the term “patient supporting apparatus” in the Heinold et al. reference. As argued in Appellants’ Main Brief, when this “equating” is done, this causes the Heinold et al. reference to disclose different structure, and teach away from, the subject matter of the independent claims on appeal.

The present appeal is ready for submission to the Board. An oral hearing is not being requested.

The Commissioner is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to account No. 501519.

Submitted by



(Reg. 28,982)

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